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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/675,165	09/29/2000	Naoji Otsuka	35.C14829	2801

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EXAMINER

NGUYEN, THINH H

ART UNIT PAPER NUMBER

2861

DATE MAILED: 12/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/675,165

Applicant(s)

OTSUKA ET AL.

Examiner

Thanh H Nguyen

Art Unit

2861

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1, 13, 14, 26-27 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 5-6, 13-15 of copending Application No. 09/702,765. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1, 13, 14, 26-27 in the application merely defines an obvious variation of a memory for storing print image disclosed and claimed in the other application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1-5, 9-17, 20, 22, and 24 are rejected under 35 U.S.C. § 102(e) as being anticipated by Askeland et al. (U.S.6,254,217)

Askeland (col.4, line 21 – col.5, line 20) discloses every element of the instant claimed print apparatus includes printing wherein ink nozzles of plural colors are arranged and applied in an ejection order during one scan (claim 28, lines 43-46) such that dots of the secondary color to be formed at plural positions (as described as subpixels within a unit pixel area, col.5, line 20) on said pixel area being symmetric (characterized by printing in the superpixel 124, fig.11B wherein ink dot is formed in the symmetric order i.e., CYC as shown by each superpixel 124 of the last row)

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Askeland et al. in view of Mizutani. (U.S. 5,774,146)

Askeland discloses the instant claimed method of printing by applying ink in symmetrical order in the forward and reverse direction except for a data buffer.

However, it would be well known in the printer art to utilize the buffer (i.e., RAM) to store processed information and improve printer processing time as taught by Mizutani (col.5, line 66 – col.6, line 8). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the data buffer in Askeland to enhance printing performance and for storing processed information.

4. Claims 6-8, 18-19, 21, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Askeland et al. in view of prior art of record to Matsufuji et al. (U.S. 4,593,295)

Askeland discloses the instant claimed nozzle structure except for nozzle groups of certain color are symmetrically arranged in a scanning direction.

Matsufuji et al. teaches nozzle groups of certain color are symmetrically arranged in a scanning direction and printing are applied in the symmetrical order. Since both Askeland and Matsufuji et al. related to controlling nozzles ejection order in the bi-directional printer, it would have been obvious to one of ordinary skill in the art at the time the invention was made to adapt the Matsufuji et al. nozzle structure in Askeland for the purpose of ejecting ink color in the symmetrical order.

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As for limitation recited in claims 18 and 19, Askeland does not teaches applying the apparatus in a copy machine and a facsimile machine.

However, it would be obvious to use the apparatus such as the ink jet printhead as taught by Askeland in the copy machine and the facsimile machine since it is widely known to apply ink jet structure as a whole in the copy machine and the facsimile machine so that ink jet application can be provided.

***Contact Information***

Any inquiry concerning this communication should be directed to Examiner Thinh Nguyen at telephone number (703) 308-7487.

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-0956.



Thinh Nguyen

November 29, 2003

Thinh Nguyen  
Primary Examiner  
Technology Center 2800

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